

ARTICLE XI.

POLICIES, PROCEDURES AND STANDARDS GOVERNING AMENDMENT

FAYETTE COUNTY PLANNING COMMISSION

- 11-1. Intent. The purpose of this Article is to describe and establish procedures for making changes to the Official Zoning Map (i.e., rezoning of properties) and amending the text of this Ordinance. Such actions require legislative approval by the Board of Commissioners in order to be enacted.
- 11-2. Technical Evaluation and Qualification of Properties.
- A. Every petition for a legislative change shall be subject to a technical evaluation. The evaluation shall be conducted by the County Planner who shall coordinate a review of the proposal with all appropriate departments, sections and public agencies. Following the evaluation, the County Planner shall prepare a report containing recommendations to be presented to the Planning Commission and the Board of Commissioners.
 - B. The Zoning Administrator shall distribute copies of applications for amendment to the Planning Commission and the Board of Commissioners. In addition, certain departments listed below, and a representative of the Soils Conservation Service shall be supplied with copies of each application. Each department head shall return his or her comments, in writing, to the Zoning Administrator at least seven (7) days prior to the Planning Commission hearing. The Board of Education shall be supplied a copy of every residential application consisting of ten (10) or more lots. The following departments shall receive applications for comments:
 - 1. Department of Public Works (County Engineer);
 - 2. Department of Health;
 - 3. Fire Department; and
 - 4. Water System.
 - C. Individual lots, parcels or tracts affected by proposed rezonings which are initiated by a party other than the Board of Commissioners of Fayette County shall each be of sufficient size and shape to meet all requirements of this Ordinance. Combination or division of lots, in accordance with County regulations, shall be accomplished as a condition of approval prior to the approval of any permits or applications.

- D. A property which is improved with existing structures and which would become nonconforming within the zoning district for which the rezoning is sought may be considered for rezoning; however, the concept plan must illustrate an attempt by the applicant to meet, to the extent possible, all requirements herein, and no subsequent use may be approved which would further a deficiency of required on-site parking. Any new construction or improvements, including expansion of any existing structure, shall comply with the minimum requirements herein and shall not be approved unless the parking requirements for the entire property can be met.

11-3. Public Hearings.

- A. Date, Place and Time. The Planning Commission shall from time to time establish a schedule of Planning Commission and Board of Commissioner public hearings, which shall include filing deadlines for submission of applications. The public hearings shall be conducted as follows:

1. Place: Fayette County Administrative Complex
2. Time and Date:
 - a. Planning Commission: First Thursday, 7:00 p.m.
 - b. Board of Commissioners: Second and Fourth Thursdays, 7:00 p.m.

Any changes from the standard schedule for public hearings will be published in the newspaper which carries legal advertisements for the County in compliance with the requirements for public notification (Section 11-11).

- B. Conduct of Hearing. Public hearings on amendments shall be conducted with at least ten (10) minutes provided for the proponents and at least ten (10) minutes provided for the opponents of an application for rezoning. An applicant may reserve part of all of the allotted time for rebuttal.

1. Decisions: Decisions of the Planning Commission and Board of Commissioners on applications for rezoning shall be made subsequent to the public hearing.
2. Minutes: The Minutes of any public hearing/workshop/meeting shall be maintained with the zoning decision entered thereon. The Minutes shall be kept as public records.

11-4. Initiation of Amendments. Applications to amend the text of this Ordinance may be initiated by the

Planning Commission, the Board of Commissioners, or by a citizen of Fayette County. The Planning Commission, the Board of Commissioners, a property owner or the authorized agent of a property owner may initiate an application to amend the official zoning map (rezone property). When an agent is authorized to act on behalf of an owner, such certificate of authorization shall be notarized on the rezoning application. All information and required fees must be received by the Zoning Administrator by the deadline date for filing.

11-5. Limitation on Re-applying and Withdrawal. If the zoning decision of the Board of Commissioners is to deny a rezoning of property, then the same property may not again be considered for rezoning until the expiration of at least six (6) months immediately following such denial. An application for a map amendment shall not be withdrawn by the applicant after the legal advertising as required herein except as provided in Sections 11-7 and 11-8.

11-6. Application for Amendment. Any citizen filing an application to amend the text or the official zoning map may obtain an application from the Zoning Administrator. Applications to amend the text or the official zoning map must be submitted on forms provided by the Zoning Administrator.

11-7. Planning Commission Recommendation.

A The Planning Commission shall make a recommendation of approval, denial, table or withdrawal without prejudice on each application. In addition, the Planning Commission may recommend amendments to the applicant's request which would reduce the land area for which the application is made, change the zoning district requested to one which is less intense, or recommend conditions which may be deemed advisable so that the purpose of this ordinance will be served and the public health, safety and welfare secured.

B. If the Planning Commission fails to submit a report within thirty (30) days from the acceptance of the completed amendment application, the application shall be deemed to have been approved.

C. A report of the Planning Commission's decision shall be submitted to the Board of Commissioners. The report shall contain the decision of the Planning Commission, all grounds therefor, and shall be signed and approved by the Chairman of the Planning Commission.

11-8. Public Hearing Before the Board of Commissioners.

A. After receipt of the Planning Commission's report and recommendation on the proposed amendment, the Board of Commissioners shall hold a public hearing. The Board of Commissioners may approve, deny or table an application. An action to table shall include a justification of such action and a specific meeting date at which the application is to be

reconsidered.

- B. In addition, the Board of Commissioners may approve an amendment with a reduction in the land area requested, change the zoning district requested (as long as such change is to a less intense zoning district), or add or delete conditions of zoning which will enhance the health, safety and welfare of the County.
- C. The Board of Commissioners may, by a majority vote of all members, allow an application to be withdrawn without prejudice with regards to the waiting period required by a denial.
- D. The decision of the Board of Commissioners shall be contained in a written report prepared by the Clerk of the Board of Commissioners. The report shall contain the decision of the Board of Commissioners, all grounds therefor, and shall be signed and approved by the Chairman of the Board of Commissioners. The Clerk shall provide a copy of the report to the Zoning Administrator which copy shall become a part of the application file and shall send one (1) copy to the applicant by certified mail.

11-9. Conditional Approval. Any application for an amendment may be approved subject to conditions which relate to the use, occupancy, or development regulations for the property contained in the petition. Conditions imposed on the property may only be more restrictive than the requirements of any zoning district and other applicable parts of this Ordinance as may apply to the property. The following policies shall apply:

- A. Controls Proposed by Applicant. An applicant may propose controls to be considered by the Planning Commission and the Board of Commissioners. Such proposed controls may include plans, limitations of use and occupancy, or more restrictive development standards than would otherwise be applied to the property.
 - 1. Such proposed controls may be eliminated or changed into conditions of approval as submitted, or they may be eliminated, modified or extended.
 - 2. The Board may choose to incorporate, as conditions of approval, selected restrictions or requirements which were not included in the request for controls submitted in the original application.
- B. Consent Not Required. Approval of applications subject to conditions may occur with or without the consent of the applicant.
- C. Conditions Shall be Permanent. All conditions imposed by action of the Board of Commissioners shall remain on the subject property regardless of changes in ownership.

- D. Changes to Conditions. Conditions shall be changed only through the amendment process by which they were established or when expressly overridden by a State government authority taking precedence over the area of regulation.

11-10. Standards for Map Amendment (Rezoning) Evaluation. All proposed map amendments shall be evaluated with special emphasis being placed on the relationship of the proposal to the Land Use Plan and related development policies of Fayette County. The County Planner shall prepare a report for each proposed map amendment which shall recommend a course of action including recommended conditions, if any. The following factors shall be considered by the County Planner, the Planning Commission and the Board of Commissioners when reviewing a request for rezoning:

- A. Whether the zoning proposal is in conformity with the Land Use Plan and policies contained therein;
- B. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property;
- C. Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing or planned streets, utilities, or schools;
- D. Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the zoning proposal.

11-11. Public Notification.

- A. Newspaper. Notice of scheduled hearings shall be published in the newspaper of general circulation within the County in which are carried the legal advertisements of the County.
 - 1. The notice shall be published at least seven (7) days prior to the public hearing before the Planning Commission, but not more than forty-five (45), nor less than fifteen (15) days prior to the public hearing before the Board of Commissioners. In the event that the time-frames above cannot be met with one advertisement, the notice shall be published twice.
 - 2. The notice shall contain the dates of the public hearings before the Planning Commission and the Board of Commissioners.
 - 3. Public notification shall include at a minimum the time, date, place, and purpose of the hearing, location, boundary description and area of the property, and the current and requested zoning classifications.

B. Posting of Sign(s).

1. A sign shall be posted along every street frontage of property for which rezoning is sought. The sign shall be posted consistent with the requirements for newspaper notification.
2. Signs used for posting property shall be a minimum of eighteen (18) inches by eighteen (18) inches and shall indicate the application number, the time, date, place and purpose of the hearings, and the current and requested zoning classifications.
3. A refundable sign deposit shall be required at the time of application for rezoning.

C. Applicant Notification.

1. Upon certification by the Zoning Administrator that an application is complete, a notice giving the date, time and place of the public hearings shall be given by certified mail to the applicant.
2. The Clerk to the Board of Commissioners shall notify the applicant by mail of any action (including tabling of action) taken by the Board of Commissioners. All actions of the Board shall be deemed to be effective as of the date of the action.

11-12. Zoning Reversion. Within three (3) years of the date of rezoning, rezoned property shall be utilized for uses allowed in the new zoning district or substantial development shall be demonstrated toward such utilization. Failure to so utilize or demonstrate substantial development may subject the property to consideration for reversion to the previous zoning classification. In such event, public hearings shall be held as for rezoning petitions and a final decision rendered by the Board of Commissioners.

11-13. Responsibilities of the Zoning Administrator. The Zoning Administrator shall have the following responsibilities associated with receiving and processing all amendment applications:

- A. Receive all applications and supporting information and collect all fees at the time of initial filing;
- B. Maintain a log of all applications;
- C. Return incomplete applications and all supporting information to the applicant upon determination that an application is incomplete with reasons for the determination;

- D. If the application is complete, issue a notice that lists the dates, times and places of all hearings that are scheduled for the application;
- E. Establish and maintain a file for each application which shall contain:
 - 1. Copies of all materials submitted by the applicant;
 - 2. Correspondence, records, reports and exhibits produced during processing;
 - 3. Minutes and all actions taken by the Planning Commission and the Board of Commissioners on an application; and
 - 4. All follow-up activities, if any, including re-filing of additional requests, copies of citations or violations and any other significant materials.
- F. Prepare a Sketch Map, utilizing County Tax Maps, for all map changes (rezoning), which shall show the location and dimensions of the subject property of the petition, all properties within at least 1,000 feet of the subject property and the zoning districts thereon;
- G. Transmit to the County Planner and those specified in Section 11-2 within five (5) working days after the deadline for submissions, all materials to be evaluated along with the Sketch Map;
- H. Schedule and provide notice for all public hearings, including the posting of the property, as required by Sections 11-3 and 11-11 herein;
- I. Transmit the recommendation of the Planning Commission to the Board of Commissioners at least seven (7) days prior to the scheduled public hearing before the Board of Commissioners; and
- J. Update the official Zoning Map.

11-14. Planning Commission. The Planning Commission consists of that body of members appointed by the Board of Commissioners to carry out the directives of this and other ordinances, and to carry out any other duties which may from time to time be assigned to the Planning Commission by the Board of Commissioners.

A. Membership and Appointments.

- 1. The Planning Commission shall consist of five (5) members residing within the County who shall be appointed by the Board of Commissioners. The members

of the Planning Commission shall be drawn from the same districts used in the election of the Board of Commissioners.

2. Vacancies on the Planning Commission shall be filled by the member of the Board of Commissioners hailing from the district which has the vacancy. Prior to this requirement, whereby members of the Planning Commission shall be appointed from the same districts used in the election of the County Commissioners, members of the Planning Commission were required to reside in one of five different Planning Commission districts.
 - a. The member of the Planning Commission from the district designated as Post 1 will now become the member from District 2.
 - b. The member of the Planning Commission from the district designated as Post 2 will now become the member from District 3.
 - c. The member of the Planning Commission from the districts designated as Post 4 and Post 5 will now become the members from District 4 and District 5, respectively.
3. None of the members shall hold any other public office except that one (1) member may also be a member of the Zoning Board of Appeals.
4. Removal of a member from the Planning Commission shall require a majority vote of the Board of Commissioners.

B. Term of Office.

1. The term of office for each member of the Planning Commission shall be three (3) years; however, for appointment of the first board, two (2) members shall be appointed for three (3) years, two (2) members for two (2) years and one (1) for one (1) year. It is the intent of this section that the terms be staggered.
2. A vacancy in the membership shall be filled for the unexpired term in the same manner as the initial appointment.
3. If the Zoning Board of Appeals member ceases to serve on the Zoning Board of Appeals during the term of appointment to the Planning Commission, that member's term shall automatically terminate and the Board of Commissioners may name a member of the Zoning Board of Appeals to fill the unexpired term of the original appointee.

C. Officers; Rules and Procedures; Minutes.

1. The Planning Commission shall elect one of its members as chairman and another as vice-chairman, each serving for one (1) year or until re-elected or a successor is elected. The vice-chairman shall act as chairman in the chairman's absence. The Planning Commission shall appoint a Secretary who shall be an employee of Fayette County.
2. The Planning Commission shall have the authority to adopt rules of procedure. Meetings of the Planning Commission shall be held at the call of the chairman and as scheduled.
3. The Planning Commission shall keep minutes of its proceedings, showing the vote of each member upon each question, or if they are absent or fail to vote, indicating such fact. The Planning Commission shall keep records of its examinations and other official actions all of which shall be immediately filed in the office of the Planning Commission (Zoning Administrator's Office) and shall be public record.

D. Conflict of Interest. Any member of the Planning Commission shall be disqualified to act upon a matter before the Planning Commission with respect to property in which the member has an interest.

E. Attendance. It shall be deemed cause for removal should any member of the Planning Commission fail, without proper reason, to attend three (3) consecutive meetings.